

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

AMERICAN EQUITY INVESTMENT LIFE INSURANCE COMPANY, Plaintiff	: : : : : : :	No. 1:15-cv-043 (Judge Kane) (Magistrate Judge Mehalchick)
v.		
ROBERT HOWARD, <u>et al.</u>, Defendants		

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

This interpleader action stems from competing claims by Defendant-Claimants Robert Howard and Robert Surfield to annuity contracts sold by Plaintiff-Stakeholder American Equity Investment Life Insurance Company (“American Equity”). (Doc. No. 20 at 3.) On January 7, 2015, Plaintiff-Stakeholder American Equity filed an interpleader complaint against Defendant-Claimants Howard and Surfield, seeking to deposit a sum of the proceeds from the annuity contracts with the Court and withdraw from the litigation. (Doc. No. 1.) Thereafter, on March 26, 2015, Plaintiff-Stakeholder American Equity filed the present motion for summary judgment. (Doc. No. 19.) Defendant-Claimant Surfield did not oppose the present motion, (Doc. No. 29), and Defendant-Claimant Howard did not file a formal brief in opposition to the motion for summary judgment (Doc. Nos. 21, 30, 31 at 10).¹

On December 29, 2015, Magistrate Judge Mehalchick issued a Report and Recommendation (Doc. No. 31), in which she recommends that this Court grant Plaintiff-Stakeholder American Equity’s motion for summary judgment (Doc. No. 19), and dismiss American Equity as a party to the proceedings. In reaching her findings, Magistrate Judge Mehalchick first determined that the Court possessed subject matter jurisdiction – pursuant to 28

¹ Defendant Dennis Howard was dismissed as a party on August 28, 2015. (Doc. No. 28.)

U.S.C. § 1335 – over the statutory interpleader action. (Doc. No. 31 at 6-9); see Lexington Ins. Co. v. Jacobs Indus. Maint. Co., LLC, 435 F. App'x 144, 147-48 (3d Cir. 2011) (addressing the jurisdictional requirements to a statutory interpleader action). Second, Magistrate Judge Mehalchick found that dismissing Plaintiff-Stakeholder American Equity from the interpleader action is proper under the circumstances. (Doc. No. 31 at 9-10.) The Court agrees.

On January 15, 2016, Defendant-Claimant Howard filed one objection to the Report and Recommendation. (Doc. No. 32.) Defendant-Claimant Howard contends that this Court should first address the validity of an April 26, 2013 “Beneficiary Claim Form” before releasing American Equity. (Doc. No. 32 at 1-3.) The Court finds that Magistrate Judge Mehalchick correctly and comprehensively addressed the substance of Defendant-Claimant Howard’s objection in the Report and Recommendation and in her March 4, 2015 order. (Doc. Nos. 15 n.1; 31); see NYLife Distrib., Inc. v. Adherence Grp., Inc., 72 F.3d 371, 375 (3d Cir. 1995). Accordingly, the Court will not write separately to address Defendant-Claimant Howard’s objection.

AND SO, upon independent review of the record and applicable law, on this 31st day of March 2016, **IT IS HEREBY ORDERED THAT:**

1. Magistrate Judge Mehalchick’s Report and Recommendation (Doc. No. 31), is **ADOPTED**;
2. Plaintiff-Stakeholder American Equity Investment Life Insurance Company’s motion for summary judgment (Doc. No. 19) is **GRANTED**;
3. Plaintiff-Stakeholder American Equity Investment Life Insurance Company is **RELEASED WITH PREJUDICE** from any further liability to Defendant-Claimants Dennis Howard, Robert Howard, and Robert Surfield with regard to American Equity Annuity Contract Nos. 113775, 147133, 174894, 179442, and 180110;
4. Defendant-Claimants Dennis Howard, Robert Howard, and Robert Surfield are enjoined from instituting or prosecuting any proceeding in any state or United States

court affecting Annuity Contract Nos. 113775, 147133, 174894, 179442, and 180110 pursuant to 28 U.S.C. § 2361;

5. Plaintiff-Stakeholder American Equity Investment Life Insurance Company is **DISMISSED** as a party to the above-captioned case; and
6. The case is remanded to Magistrate Judge Mehalchick for further pre-trial proceedings.

S/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania